

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPEALATE SIDE

WRIT PETITION NO.1930 OF 2005

Eknath Laxman Wanjale & Ors. ...Petitioners.

Vs.

Shri Dashrath Shankar alias Ganpat Dhamale. ...
Respondent.

....

Mr. Vilas b. Tapkir for the Petitioner.
Mr. S. J. Rairkar for the Respondent.

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CORAM : [DR.D.Y.CHANDRACHUD](#), J.

October 21, 2005.

P.C.:

Rule, by consent returnable forthwith. Counsel appearing on behalf of the Respondent waives service. By consent of Counsel and at their request taken up for hearing.

A suit for specific performance filed in 1991 was decreed on 5th September 2002. There was a delay in filing an appeal and an application for condonation of delay was filed. In the application, it was stated that after the judgment and decree dated 5th September 2002, an application for issuance of a certified copy was filed on 1st October 2002 and the copy was received on 8th

October 2002. The Petitioner stated that he was unwell and there was a delay of a marginal nature of 11 days. Having regard to the facts and circumstances of the case, I am of the view that the delay in the present case is of such nature that it would be possible to compensate the Respondent by an appropriate order of costs.

In these circumstances, the application for condonation of delay is allowed subject to the payment of costs quantified at Rs.3,000/-. Payment of costs to be condition precedent. The costs to be paid within a period of four weeks from today, failing which, delay shall not stand condoned. Subject to the aforesaid payment being made within the stipulated period, the delay shall stand condoned and the appeal shall stand restored to the file of the Joint District Judge, Pune. The petition is accordingly disposed of.

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